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8  
9 **BEFORE THE**  
**PHYSICIAN ASSISTANT COMMITTEE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1E-2002-137594

13 STANLEY M. MCCARTNEY, P.A.  
9 Bellingham Place  
14 Laguna Niguel, CA 92677

**ACCUSATION**

15 Physician Assistant No. PA-11928

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Complainant Richard L. Wallinder, Jr. ("Complainant") brings this  
21 Accusation solely in his official capacity as the Executive Officer of the Physician Assistant  
22 Committee, Department of Consumer Affairs.

23 2. On or about March 6, 1987, the Physician Assistant Committee issued  
24 Physician Assistant Number PA-11928 to Stanley M. McCartney, P.A. ("Respondent"). The  
25 Physician Assistant license was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on November 30, 2004, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Physician Assistant Committee

1 (“Committee”) for the Medical Board of California, Department of Consumer Affairs, under the  
2 authority of the following laws. All section references are to the Business and Professions Code  
3 unless otherwise indicated.

4           4.       Section 3527 of the Code provides that the Committee may order the  
5 denial of an application for, or the issuance subject to terms and conditions of, or the suspension  
6 or revocation of, or the imposition of probationary conditions upon a physician's assistant  
7 certificate for unprofessional conduct.

8           5.       Section 2234 of the Code states:

9           “The Division of Medical Quality shall take action against any licensee who is  
10 charged with unprofessional conduct. In addition to other provisions of this article,  
11 unprofessional conduct includes, but is not limited to, the following:

12           “(a) Violating or attempting to violate, directly or indirectly, or assisting in or  
13 abetting the violation of, or conspiring to violate, any provision of this chapter [Chapter  
14 5, the Medical Practice Act].

15           “(b) Gross negligence.

16           “(c) Repeated negligent acts. To be repeated, there must be two or more negligent  
17 acts or omissions. An initial negligent act or omission followed by a separate and distinct  
18 departure from the applicable standard of care shall constitute repeated negligent acts.

19           “(1) An initial negligent diagnosis followed by an act or omission medically  
20 appropriate for that negligent diagnosis of the patient shall constitute a single negligent  
21 act.

22           “(2) When the standard of care requires a change in the diagnosis, act, or omission  
23 that constitutes the negligent act described in paragraph (1), including, but not limited to,  
24 a reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct  
25 departs from the applicable standard of care, each departure constitutes a separate and  
26 distinct breach of the standard of care.

27           “(d) Incompetence.

28           “(e) The commission of any act involving dishonesty or corruption which is

1 substantially related to the qualifications, functions, or duties of a physician and surgeon.

2 “(f) Any action or conduct which would have warranted the denial of a  
3 certificate.”

4 6. Section 3502 of the Code provides, in pertinent part:

5 “(a) Notwithstanding any other provision of law, a physician assistant may  
6 perform those medical services as set forth by the regulations of the board when the  
7 services are rendered under the supervision of a licensed physician and surgeon or of  
8 physicians and surgeons approved by the board, except as provided in Section 3502.5.

9 . . . .”

10 7. Section 3502.1 of the Code states:

11 “(a) In addition to the services authorized in the regulations adopted by the board,  
12 and except as prohibited by Section 3502, while under the supervision of a licensed  
13 physician and surgeon or physicians and surgeons authorized by law to supervise a  
14 physician assistant, a physician assistant may administer or provide medication to a  
15 patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to  
16 a person who may lawfully furnish the medication or medical device pursuant to  
17 subdivisions (c) and (d).

18 “(1) A supervising physician and surgeon who delegates authority to issue a drug  
19 order to a physician assistant may limit this authority by specifying the manner in which  
20 the physician assistant may issue delegated prescriptions.

21 “(2) Each supervising physician and surgeon who delegates the authority to issue  
22 a drug order to a physician assistant shall first prepare or adopt a written, practice  
23 specific, formulary and protocols that specify all criteria for the use of a particular drug or  
24 device, and any contraindications for the selection. The drugs listed shall constitute the  
25 formulary and shall include only drugs that are appropriate for use in the type of practice  
26 engaged in by the supervising physician and surgeon. When issuing a drug order, the  
27 physician assistant is acting on behalf of and as an agent for a supervising physician and  
28 surgeon.

1           “(b) "Drug order" for purposes of this section means an order for medication  
2           which is dispensed to or for a patient, issued and signed by a physician assistant acting as  
3           an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code  
4           of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order  
5           issued pursuant to this section shall be treated in the same manner as a prescription or  
6           order of the supervising physician, (2) all references to "prescription" in this code and the  
7           Health and Safety Code shall include drug orders issued by physician assistants pursuant  
8           to authority granted by their supervising physicians, and (3) the signature of a physician  
9           assistant on a drug order shall be deemed to be the signature of a prescriber for purposes  
10          of this code and the Health and Safety Code.

11           “(c) A drug order for any patient cared for by the physician assistant that is issued  
12          by the physician assistant shall either be based on the protocols described in subdivision  
13          (a) or shall be approved by the supervising physician before it is filled or carried out.

14           “(1) A physician assistant shall not administer or provide a drug or issue a drug  
15          order for a drug other than for a drug listed in the formulary without advance approval  
16          from a supervising physician and surgeon for the particular patient. At the direction and  
17          under the supervision of a physician and surgeon, a physician assistant may hand to a  
18          patient of the supervising physician and surgeon a properly labeled prescription drug  
19          prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law,  
20          or a pharmacist.

21           “(2) A physician assistant may not administer, provide or issue a drug order for  
22          Schedule II through Schedule V controlled substances without advance approval by a  
23          supervising physician and surgeon for the particular patient.

24           “(3) Any drug order issued by a physician assistant shall be subject to a reasonable  
25          quantitative limitation consistent with customary medical practice in the supervising  
26          physician and surgeon's practice.

27           “(d) A written drug order issued pursuant to subdivision (a), except a written drug  
28          order in a patient's medical record in a health facility or medical practice, shall contain the

1 printed name, address, and phone number of the supervising physician and surgeon, the  
2 printed or stamped name and license number of the physician assistant, and the signature  
3 of the physician assistant. Further, a written drug order for a controlled substance, except  
4 a written drug order in a patient's medical record in a health facility or a medical practice,  
5 shall include the federal controlled substances registration number of the physician  
6 assistant. The requirements of this subdivision may be met through stamping or  
7 otherwise imprinting on the supervising physician and surgeon's prescription blank to  
8 show the name, license number, and if applicable, the federal controlled substances  
9 number of the physician assistant, and shall be signed by the physician assistant. When  
10 using a drug order, the physician assistant is acting on behalf of and as the agent of a  
11 supervising physician and surgeon.

12 “(e) The medical record of any patient cared for by a physician assistant for whom  
13 the supervising physician and surgeon's drug order has been issued or carried out shall be  
14 reviewed and countersigned and dated by a supervising physician and surgeon within  
15 seven days.

16 “(f) All physician assistants who are authorized by their supervising physicians to  
17 issue drug orders for controlled substances shall register with the United States Drug  
18 Enforcement Administration (DEA).”

19 8. Section 125.3 of the Code states, in pertinent part, that the Board may  
20 request the administrative law judge to direct a licentiate found to have committed a violation or  
21 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
22 and enforcement of the case.

### 23 CONTROLLED SUBSTANCES

24 9. Demerol (Meperidine) is a Schedule II controlled substance pursuant to  
25 Health and Safety Code section 11055.

26 10. Vicodin (Hydrocodone) is a Schedule II controlled substance pursuant to  
27 Health and Safety Code section 11055.  
28

1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 11. Respondent is subject to disciplinary action under section 2234, subsection  
4 (b), of the Code in that he committed gross negligence in the care and treatment of patient F.B.<sup>1</sup>

5 The circumstances are as follows:

6 12. On or about January 14, 2002, at approximately 1:15 a.m., patient F.B., a  
7 female patient who was sixty-four years old at the time, was brought to the emergency room  
8 where Respondent worked at Kaiser Hospital in Anaheim, California. The patient complained of  
9 acute pain in her left arm from her left shoulder down to her hand, reported her pain as being at  
10 level ten, and was audibly moaning due to her pain. The patient had no history of trauma in her  
11 left arm or shoulder region, no shortness of breath, and no diaphoresis or chest pain. Respondent  
12 ordered x-rays of the patient's back and shoulder, which came back negative, and took the  
13 patient's blood pressure. Respondent also noted tenderness in the left rhomboid and  
14 scapulathoracic junction. However, Respondent failed to assess or examine the condition of the  
15 patient's heart.

16 13. Respondent's diagnosis was acute scapulothoracic pain, and his immediate  
17 treatment plan was administration of Demerol 75 mg intramuscularly and Toradol intravenously  
18 for pain. However, Respondent failed to obtain a patient-specific authorization from a  
19 supervising physician prior to administering the Demerol. Respondent advised that the patient  
20 apply ice to the sore area and employ an arm sling. Respondent prescribed Vicodin and Motrin  
21 for pain and advised the patient to follow up with her primary-care physician, despite failing to  
22 obtain a patient-specific authorization from a supervising physician prior to prescribing the  
23 Vicodin. The patient returned home and, several hours later, died of an acute myocardial  
24 infarction.

25 14. Respondent committed gross negligence in the care and treatment of  
26 \_\_\_\_\_

27 1. The names of patients are kept confidential to protect their privacy rights and, though  
28 known to Respondent, will be revealed to him in writing upon receipt of his written request for  
discovery.

1 patient F.B. by failing to fully assess an elderly patient's acute onset of severe pain in the left  
2 upper extremity absent any trauma to that region, a condition which would be considered cardiac  
3 in origin until proven otherwise.

4 SECOND CAUSE FOR DISCIPLINE

5 (Incompetence)

6 15. Respondent is subject to disciplinary action under section 2234, subsection  
7 (d), of the Code, in that he exhibited incompetence in the care and treatment of patient F.B. The  
8 circumstances are as follows:

9 16. Paragraphs 12 through 14 are incorporated by reference as if set forth in  
10 full.

11 THIRD CAUSE FOR DISCIPLINE

12 (Administering Medication Without Authorization)

13 17. Respondent is subject to disciplinary action under section 3502, subsection  
14 1 of the Code in that he administered Demerol, a Schedule II controlled substance, and  
15 prescribed Vicodin, a Schedule II controlled substance, to the patient without advance approval  
16 by a supervising physician and surgeon for patient F.B. The circumstances are as follows:

17 18. Paragraphs 12 and 13 are incorporated by reference as if set forth in full.  
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1 PRAYER

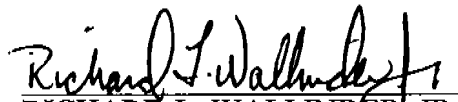
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Physician Assistant Committee issue a decision:

4 1. Revoking or suspending Physician Assistant Number PA-11928, issued to  
5 Stanley M. McCartney, P.A.;

6 2. Ordering Stanley M. McCartney, P.A. to pay the Physician Assistant  
7 Committee the reasonable costs of the investigation and enforcement of this case, pursuant to  
8 Business and Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: January 28, 2004

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12   
13 RICHARD L. WALLINDER, JR.  
14 Executive Officer  
15 Physician Assistant Committee  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

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17 Mccartney.acc.wpd  
18 JD 1/20/04  
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